

REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Claim Amendment

Claim 9 has been amended to recite that the process of producing a fried-like cooked food is without a deep-frying step. Support for this limitation is found on page 4, lines 1-4 of the specification.

Additionally, claim 9 has been amended to recite that the fat composition consists essentially of the recited components. Support for this amendment is found in the Examples of Applicants' specification.

Claim 9 has also been amended to make editorial changes, in order to better comply with U.S. practice.

No new matter has been added to the application by these amendments.

Consideration After Final Rejection

Although this Amendment is presented after final rejection, the Examiner is respectfully requested to enter the amendments and consider the remarks, as they place the application in condition for allowance.

Patentability Arguments

The patentability of the present invention over the disclosures of the references relied upon by the Examiner in rejecting the claim will be apparent upon consideration of the following remarks.

Rejection Under 35 U.S.C. § 103(a)

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson et al. (U.S. 5,138,800), as further evidenced by Schwartzberg ((1992) Physical Chemistry of Foods, Marcel Dekker, Inc., Table 6.6).

This rejection is respectfully traversed for the following reasons.

In response to Applicants' previously submitted arguments, the Examiner states that it is not seen that "browning" in Anderson would be considered "slightly burned". The Examiner also indicates that although Applicants argue there is no water in the claimed invention, the claims are not limited by the absence of water.

Applicants' claim 9 requires a process of producing a fried-like cooked food without a deep-frying step, which comprises coating the surface of an unfried food with a fat composition for coating a food to be cooked by spraying or immersing the unfried food in oil containing the fat composition to obtain a coated unfried food, and then subjecting the coated unfried food to radiation heating or superheated steam heating, wherein the fat composition consists essentially of a fat and an agent for reducing the contact angle of the resulting fat composition to the recited amount.

Anderson merely discloses a browning composition for imparting a brown color to uncooked foods or foods cooked with, for example, a microwave oven by applying the composition on the surface of the foods. The browning composition of Anderson is distinguished from Applicants' claims, because the browning composition contains a substantially oil-immiscible medium, such as water (see column 2, line 3, and column 4, lines 57-64).

On the contrary, the fat composition of Applicants' claimed process does not contain water, as is evident from the examples of the specification. Further, as discussed above, Applicants' claim 9 clarifies that the fat composition consists essentially of a fat and an agent for reducing the contact angle of the resulting fat composition. "Consisting essentially of" language is interpreted under U.S. law as limiting the scope of a claim to the specified materials and those that do not materially affect the basic and novel characteristics of the claimed invention. Please see MPEP § 2111.03 and *In re Hertz*, 537 F.2d 549, 551-52, 190 USPQ 461, 463 (CCPA 1976) in this regard. In this case, as discussed in Applicants' previous response, Applicants' recited fat composition does not contain water, and the same has been excluded by the present amendments. The present invention is totally different from the teachings of Anderson, because the present invention is directed to a process of producing a fried-like food by means of a simple cooking

procedure, without using a deep frying step. According to the present invention, a food may be cooked with a smaller amount of oil, to obtain a fried-like cooked food having a crispy feel, not a greasy or sticky feeling in the mouth.

Anderson fails to teach or suggest Applicants' claimed process, wherein the fat composition consists essentially of a fat and an agent for reducing the contact angle. Further, Anderson fails to teach, suggest or even recognize the advantages achieved by Applicants' process.

Schwartzburg is relied upon merely for the disclosure of the HLB of certain emulsifiers. Thus, this reference fails to remedy the deficiencies of the Anderson reference.

For the reasons set forth above, the subject matter of Applicants' claim 9 is patentable over the cited references. Thus, it is respectfully requested that the above-rejection be withdrawn.

Conclusion

Therefore, in view of the foregoing amendments and remarks, it is submitted that the ground of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

If, after reviewing this Amendment, the Examiner feels there are any issues remaining which must be resolved before the application can be passed to issue, the Examiner is respectfully requested to contact the undersigned by telephone in order to resolve such issues.

Respectfully submitted,

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